

Applicant : Jonathan S. Stinson  
Serial No. : 10/690,717  
Filed : October 22, 2003  
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Attorney's Docket No.: 10527-501001 / 03-146

### **Remarks**

Claims 1, 27, 29-31, 35-36 and 41 have been amended, claim 28 has been cancelled, and new claims 60-63 have been added. Applicant acknowledges the Examiner's indication that claims 12, 28, 29, 35, 36, and 50 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 3-27, 29-33, 35-36, 41 and 44-63 are presented for examination.

### **Claim Objections**

Claim 36 was objected to because it uses the term "includes" in depending from a claim that contains the phrase "consisting essentially of." Applicants have amended the claim to obviate the objection.

### **Claim Rejection – 35 U.S.C. § 112**

Claims 30, 31, 35 and 36 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite. These claims have been amended to overcome this rejection.

### **Claim Rejection – 35 U.S.C. § 102**

Claims 1, 4, 5, and 14-23 have been rejected under 35 U.S.C. § 102(b) as anticipated by JP 2000-104141 (JP '141).

Claim 1, from which claims 4, 5, and 14-23 depend, recites a medical device comprising an alloy greater than about 50 weight percent of platinum and a 300 series stainless steel. As acknowledged by the Examiner (see Office Action of 6/24/05 at page 10, ¶ 16) JP '141 does not disclose such an alloy. The subject claims are therefore novel over JP '141, and the rejection should be withdrawn.

Claims 1, 4-9, and 13-21 have been rejected under 35 U.S.C. § 102(b) as anticipated by JP 61-076634 (JP '634).

JP '634 likewise does not disclose an alloy including greater than about 50 weight percent of platinum and a 300 series stainless steel. (See Office Action of 6/24/05 at page 10, ¶ 16). The subject claims are therefore novel over JP '634, and the rejection should be withdrawn.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 5-7, 10-11, 14-21, and 24-26 have been rejected under 35 U.S.C. § 103(a) as obvious over JP '141.

As noted above, claim 1, from which claims 5-7, 10-11, 14-21, and 24-26 depend, recites a medical device comprising an alloy comprising greater than about 50 weight percent of platinum and a 300 series stainless steel. As acknowledged by the Examiner (see Office Action of 6/24/05 at page 10, ¶ 16) JP '141 does not disclose or suggest such an alloy. Accordingly, the rejection should be withdrawn.

Claims 27 and 30-33 have been rejected under 35 U.S.C. § 103(a) as obvious over JP '141 in view of "Metals Handbook Desk Edition", p. 54, 362-365.

Claim 27, from which claims 30-33 depend, recites a medical device comprising an alloy that includes a series 300 stainless steel and greater than about 50% by weight of platinum. As acknowledged by the Examiner (see Office Action of 6/24/05 at page 10, ¶ 16) JP '141 in combination with "Metals Handbook Desk Edition" does not disclose or suggest such an alloy. Accordingly, the rejection should be withdrawn.

Claims 14-21 and 24-26 have been rejected under 35 U.S.C. § 103(a) as obvious over JP '634.

JP '634 does not disclose or suggest an alloy including greater than about 50 weight percent of platinum and a 300 series stainless steel as required by the subject claims. (See Office Action of 6/24/05 at page 10, ¶ 16). The subject claims are therefore non-obvious over JP '634, and the rejection should be withdrawn.

Claims 1, 3-7, 13-26, 41, 44-47, and 51-59 have been rejected under 35 U.S.C. § 103(a) as obvious over Matsui et al., U.S. 5,161,972 ("Matsui").

Claim 1, from which claims 4, 5, and 14-23 depend, recites a medical device comprising an alloy greater than about 50 weight percent of platinum and a 300 series stainless steel, while claim 41, from which claims 44-47 and 51-59 depend, recites a composition comprising greater than about 50 weight percent of platinum, and a series 300 stainless steel. Matsui does not disclose or suggest an alloy or a composition including greater than about 50 weight percent of platinum and a 300 series stainless steel as required by the subject claims. (See Office Action of 6/24/05 at page 10, ¶ 16). The subject claims are therefore non-obvious over Matsui, and the rejection should be withdrawn.

### New Claims

New claim 60 recites a medical device that includes an alloy comprising from about 3 to about 22 weight percent of chromium, between about 1 weight percent and about 4 weight percent of molybdenum, greater than about 60 weight percent of platinum, and iron, wherein the alloy forms a portion of the medical device. New claim 61 recites a medical device including an alloy comprising from 3 to 20 weight percent of chromium, from about 1 weight percent to about 4 weight percent molybdenum, greater than 80 weight percent of platinum, and iron, wherein the alloy forms a portion of the medical device.

None of the references of record disclose or suggest such a medical device. JP '141 discloses compositions that optionally include molybdenum, but JP '141 does not provide any way of determining the weight percentage of molybdenum. JP '141 instead provides a general description, with atomic percentage ranges, of compositions that include platinum and optionally includes up to 25 atomic percent of chromium, cobalt and/or nickel and up to 10 atomic percent of seventeen other elements including molybdenum. Absent a specific formula, the atomic percentages cannot be converted into weight percentages. The only specific formulation that includes molybdenum, Example 4, has only 0.5 weight percent of molybdenum. As such, the alloy of claim 60 is not disclosed or suggested by JP '141. JP '141 further discloses no more than 67.8% by weight platinum, and therefore does not anticipate or render obvious new claim 61. JP '634 makes no reference to molybdenum, and therefore does not anticipate or render

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obvious claims 60 or 61. Matsui discloses compounds containing no more than 4.3% by weight of chromium and discloses no more than 75.8% by weight of platinum. As a result, Matsui does not anticipate or render obvious new claims 60 and 61. New claims 62 and 63 are previously presented claims 12 and 50, rewritten to include all of the limitations of the base claim and any intervening claims. The Examiner has indicated that these claims, presented in this form, are allowable.

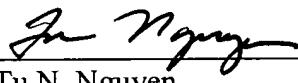
For at least the reasons presented above, Applicant believes the claims are in condition for allowance, which action is requested.

Enclosed is a check for excess claim fees. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: October 17, 2005

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